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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,750	09/22/2005	Tony Elijah Muldowney-Colston	403415/M&C	2474
23548 7590 03/02/2007 LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			EXAMINER IP, SHIK LUEN PAUL	
			ART UNIT	PAPER NUMBER
			2837	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/02/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/536,750

**Applicant(s)**

MULDOWNEY-COLSTON ET AL.

**Examiner**

Paul Ip

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/27/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Information Disclosure Statement*

2. The information disclosure statement (IDS) submitted on 5/27/2005 complies with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-4, 8, 9, 11-13, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura (4,599,546) in view of Elliott (3,675,103).

With respect to claims 1-4, 11, 12, and 13, Uemura discloses a wiper device comprising a housing as shown in figure 5 including a motor 2M, a shaft 63, a stator (61), a rotor 1, a switch (figure 1 elements 28,29,41; figures 3, 4 and 10) and a mechanical activator (20, 85) movable by the shaft and acting on the switch so as to move it between the first and second positions. Whereas the claims recite a stator having a winding. However, the patent to Elliott discloses a windshield wiper system comprising a motor with a stator winding 14. Prima facie case is made that the use of a permanent magnet or field winding for DC motors for an expected result is within the scope of the field of wiper devices. Since Elliott and Uemura are wiper devices used in the same environment, it would have been obvious to one of ordinary skill in the art to provide Uemura a motor with field winding in place of the permanent magnet as taught or suggested by Elliott. Uemura shows the switch have three positions 41, 29 and neutral position.

With respect to claims 8, 9, and 16-19, when seeking for the efficiency and cost factors of motors, it would have been obvious to one of ordinary skill in the art to use different type of motors such PM DC motor or switched reluctance motor as recited in the claims.

5. Claims 5-7, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura (4,599,546) in view of Elliott (3,675,103) taken with Oakley (2,454,882).

The patent to Oakley shows in figure 2 three switches and figure 3 three switches and three motor windings. Since the three switches are equally arranged at the side of

the cam, each switch is arranged in 120 degree as recited in the claims 14 and 15. Since Uemura shows in figures 4 and 10 the cam have a circular rotational contacts, it is inherent that the cam has the  $1/6^{\text{th}}$  of a cycle and  $1/3^{\text{rd}}$  of the cycle as recited in claims 5 and 6.

### ***Citation of Pertinent References***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on PTO form 892 are motor driven cam switches for controlling the motor directions.

### ***Communication Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Ip whose telephone number is (571)-272-1941. The examiner can normally be reached on Monday to Friday from 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan, can be reached on (571)-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Internet correspondence **MUST** be provided with a prior written authorization by applicant in the application file record giving the Office authorization to communicate with applicant via e-mail. Without a written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Ip  
Primary Examiner  
Art Unit 2837

2/28/2007